**THE HON'BLE MR. JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION NOs.18881, 19105, 19286, 19751, 23770, 24564, 25**
**25278 and 25612 of 2006 and 1900, 2703, 2742, 2697, 3269, 3270, 3**
**3483, 6413, 6424, 7042, 7046, 9222, 10159, 10463, 10680, 10936, 10**
**12957, 15447, 22952, 22966, 23937, 25131 of 2007**

**Date:28-12-2007**

**WRIT PETITION NOs.18881 of 2006:**

Between:
R.Veera Raghava Prasad.

... Petitioner

AND

The District Collector Krishna
District at Machilipatnam and another.

... Respondents

Counsel for the petitioner: Sri C.Raghu

Counsel for respondents: G.P. for Land Acquisition.

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

**THE HON'BLE MR. JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION NOs.18881, 19105, 19286, 19751, 23770, 24564, 25**
**25278 and 25612 of 2006 and 1900, 2703, 2742, 2697, 3269, 3270, 3**
**3483, 6413, 6424, 7042, 7046, 9222, 10159, 10463, 10680, 10936, 10**
**12957, 15447, 22952, 22966, 23937, 25131 of 2007**

**COMMON JUDGMENT:-**

In this batch of cases, the petitioners, besides raising issues specific to their cases, also raised the common issue, viz., whether the proceedings initiated by respondents for acquiring their agricultural lands without their conversion for non-agricultural use, viz., house sites, are invalid as being contrary to the provisions of the Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short "the 2006 Act"). Therefore, all these Writ Petitions were heard together and are being disposed of by this common judgment.

Before going into the individual issues raised in these Writ Petitions, I propose to decide the common issue first.

In all these cases, the lands proposed to be acquired are agricultural lands. They are proposed to be acquired for providing house sites to the poorer sections of the Society. In the affidavits filed in support of their respective Writ Petitions, the petitioners averred that under Section 3 of the 2006 Act, which came into force from 2-1-2006, no agricultural land shall be put to non-agricultural purposes, without the prior permission of the competent authority, and that the person, who intends to use the agricultural land for non-agricultural purposes, has to make an application to the competent authority for such conversion in the prescribed form by payment of a specified fees. It is further averred that under Section 3(6) the competent authority may reject the request for conversion by giving reasons. On this premise, the petitioners averred that in the face of the prohibition contained in Section 3 on the use of agricultural land for non-agricultural purposes,

the impugned notifications, under which the petitioners' agricultural lands are proposed to be acquired, are liable to be declared as illegal.

In the separate counter-affidavits filed on behalf of the respondents, it is averred that the provisions of the 2006 Act have no application to the lands proposed to be acquired for providing house sites to the poorer sections of the Society.

Sri C.Raghu, Sri P.Sri Raghuram, Sri T.Jagadeesh, Sri Ch.Dhananjaya and Smt.A.Chaya Devi advanced their arguments on behalf of the petitioners on this issue and the learned Government Pleader for Land Acquisition made his submissions on behalf of the respondents.

The sheet-anchor of their arguments is that the proposed acquisition of agricultural lands for non-agricultural purpose (providing house sites), without conversion, is in the teeth of the provisions of Section 3 of the 2006 Act.

Sri C.Raghu, learned counsel for the petitioners, relied upon the judgment of the Supreme Court in **STATE OF PUNJAB V. SANJEET SINGH GREWAL**[1]**.**

Sri P.Sreeraghuram, learned counsel, submitted that though a Division Bench of this Court in its judgment dated 1-10-2007 rendered in Writ Petition No.22809 of 2006 rejected a similar contention, this issue requires fresh consideration in view of the judgment of the Supreme Court in **SANJEET SINGH GREWAL** (1 supra).

Sri T.Jagadish, learned counsel, submitted that while Rule 71 of A.P. (Telangana Area) Land Revenue Rules envisaged prohibition of conversion of any agricultural land for non-agricultural purposes without permission from the District Collector concerned, for the first time a comprehensive Statute was introduced by way of the 2006 Act. He submitted that the objective of this Act is to enable the neighboring agricultural land owners to raise objections to usage of land for non-agricultural purpose, and that Section 3 prohibits such usage of the land without prior permission from the competent authority.

I have carefully considered the submissions of the learned counsel. To appreciate the above mentioned contentions of the learned counsel, it is necessary to notice the relevant provisions of the 2006 Act.

The long title of the Act reads as under:

> " An Act to Regulate the Conversion of Agricultural Land to Non-Agricultural Purposes and for matters connected therewith or incidental thereto and to repeal the Andhra Pradesh Non-Agricultural Lands Assessment Act, 1963".

The Statement of Objects and Reasons are as follows:

> "The Andhra Pradesh Non-Agricultural Land Assessment Act, 1963 provides for the levy of assessment on lands used for Non-agricultural purposes.
>
> The 'Non-agricultural land' as defined under Section 2(g) of the Act, means Land other than the land used exclusively for the purpose of agriculture but does not include the land used exclusively for (i) Cattle sheds; (ii) hay ricks.
>
> Section 3 of the Act, is the charging section according to the areas and rates indicated in the Schedule therein. The Schedule sets out the rates of assessment per Sqr.Mtr. of land used per Fasli year (a) for industrial purpose; (b) for commercial purpose; and (c) for any other Non-agricultural purpose including residential purpose.
>
> The High Court of A.P. in *S.V. Cements Ltd., Vs. R.D.O. Nandyal and others – (1993 (2) ALT 32)* interpreted the word 'used' recurring in Section 3 and the Schedule of the said Act means not only actually used but also means any land meant to be used or set apart for being used.
>
> On appeal, the Apex Court in the *Federation of A.P. Chamber of Commerce and Industry and others Vs. State of A.P.* (C.A.No.1039/2000) on 04-08-2000 held that it is only the land which is actually in use for an Industrial purpose as defined in the Act that can be assessed to non-agricultural assessment at the rate specified for land used for Industrial purposes. If the Supreme Court orders are implemented by charging NALA, the demand will go down to 75% of the total demand.
>
> The Government have evolved New Industrial policy and orders were issued exempting all Industrial units from levy of NALA with effect from 01-04-2000 to 31-03-2005.
>
> Accordingly, Government have decided to abolish NALA by repealing the Andhra Pradesh Non-Agricultural Land Assessment Act, 1963 in its present form and to introduce levy in lump sum at the rate of 10% (Ten percent) of the basic value of the land in arrears as may be fixed by the Government from time to time as one time measure at the time of conversion by undertaking a specific legislation".

Section 2(a) defined the word 'agricultural' as:

(i) the raising of any crop or garden produce; or

(ii) the raising of orchards; or

(iii) the raising of pasture; or

(iv) Hay-ricks.

Section 2(b) defined 'Agriculture lands' as lands used for agriculture.

Section 2© defined 'Conversion' as change of land use from agricultural to non-agricultural purposes and Section 2(d) defined 'Non-agricultural land' as land other than Agricultural land.

Section 3(1) imposes prohibition on use of agricultural land for non-agricultural purposes without prior permission of the competent authority.

Sub-Sections (2) to (6) of Section 3 provide for the procedure for conversion of agricultural lands for non-agricultural purpose.

Under Section 4, with effect from the date of commencement of the Act every owner or occupier of agricultural land shall have to pay a conversion fee for non-agricultural purposes at the rate of 10% of the basic value of the land in areas as may be notified by the Government from time to time.

Section 6 provides for imposition of penalty if any agricultural land is put to non-agricultural purpose without obtaining the prior permission of the competent authority under Section 3 of the 2006 Act.

Section 7 exempts application of the provisions of the 2006 Act to the following lands, viz.,

(a) Lands owned by the State Government;

(b) Lands owned by a local authority and used for any communal purposes so long as the land is not used for commercial purposes;

(c) Lands used for religious or charitable purposes;

(d) Lands used by owner for household industries involving traditional occupation, not exceeding one acre;

(e) Lands used for such other purposes as may be notified by the Government from time to time.

Section 8, which repealed the provisions of the Andhra Pradesh Non-Agricultural Lands Assessment Act, 1963 is as follows:

> "Any person aggrieved by an order of the Revenue Divisional Officer may file an appeal before the Collector within sixty days of receipt of such order by the applicant".

From the long title of the 2006 Act and the Statement of Objects and Reasons, it is clear that this Act is brought into existence in place of the Andhra Pradesh Non-Agricultural Land Assessment Act, 1963 in the wake of the decisions of this Court and the Supreme Court on the interpretation of the word 'used'. In Section 3 of the repealed Act and the new Industrial policy, the State Government exempted Industrial Units from levy of Non-Agricultural Land Assessment (NALA) with effect from 1-4-2000 to 31-3-2005.

A conjoint reading of the Long Tile, the Statement of Objectives and Reasons and Section 8 leaves one in no doubt that this Act is intended to replace the earlier enactment on recovery of NALA by regulating the conversions and prescribe and recover fees for converting agriculture land for non-agricultural purposes. The provisions of the said Act are, therefore, required to be considered keeping in view the purpose for and the objects with which the Act is made.

While interpreting the provisions of a Statute, the Long Title and the Statement of Objects and Reasons constitute internal aids to arrive at the true purport of a statutory provision. In **ASWINIKUMAR GHOSE V. ARABINDA BOSE**[2] the Supreme Court held:

> "One cannot but be impressed at once with the wording of the full title of the Act. Although there are observations in earlier English cases that the title is not a part of the statute and is, therefore, to be excluded from consideration in construing the statutes, it is now settled law that the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction, although it cannot override the clear meaning of the enactment".

In **WORKMEN OF DIMAKUCHI TEA ESTATE V. MANAGEMENT OF DIMAKUCHI TEA ESTATE**[3] the Supreme Court held:

> "The words of a statute, when there is doubt about their meaning, are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the Legislature has in view. Their meaning is found not so much in a strict grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained".

In **NEW INDIA SUGAR MILLS LTD. V. COMMISSIONER OF SALES TAX, BIHAR**[4] the Supreme Court observed:

> "It is a recognized rule of interpretation of statutes that expressions used therein should ordinarily be understood in a sense in which they best harmonize with the object of the statute, and which effectuate the object of the Legislature".

In **BUSCHING SCHMITZ PRIVATE LTD. V. P.T.MENGHANI**[5] the Supreme Court held:

> "The Court should adopt an object oriented approach keeping in mind the principle that legislative futility is to be ruled out so long as interpretative possibility permits".

However, in **COMMISSIONER OF INCOME TAX, ORISSA V. BUDHRAJA AND COMPANY**[6], the Supreme Court held:

> "The object oriented approach, however, cannot be carried to the extent of doing violence to the plain language used by rewriting the section or substituting words in place of the actual words used by the Legislature".

In the light of the settled law, on the interpretation of the Statutory provisions from the above mentioned judgments, the prohibition contained in Section 3 of the 2006 Act is required to be interpreted.

A careful reading of Section 3, as a whole, clearly indicates that a person shall not use agricultural land for non-agricultural purposes without paying the stipulated conversion fees and obtaining the

permission of the competent authority. The 2006 Act is, therefore, intended to achieve the purpose of user of the agricultural land for non-agricultural purposes through a regulatory mechanism. It is significant to notice that certain categories of lands are exempted from the application of the provisions of this Act and one such category relates to the lands owned by the State Government. The attempt on the part of the learned counsel for the petitioners to relate the provisions of this Act to the provisions of the Land Acquisition Act, 1894 (for short "the Act") and contend that without conversion the State cannot propose to acquire the agricultural land for putting it to non-agricultural use, has no legal basis at all. In my considered view, the provisions of the two enactments operate in different areas. While the Act empowers the State to acquire private lands for public purposes and also for being used by Companies for the purposes mentioned in Part-VII of the said Act, the purposes and objects of the 2006 Act are confined only to regulate the conversion of agricultural land for non-agricultural use and prescribe and recover NALA. Neither of the two Acts places any restriction on the State's power of eminent domain to acquire agricultural land for being used for non-agricultural purposes. That, far from placing such a prohibition on the State, the State is exempted from the application of the provisions of the 2006 Act, is clear from the provisions of Section 7(a) of the said Act.

In the impugned notifications, the State, through its functionaries, has proposed to acquire the agricultural lands for being put to non-agricultural purposes. Section 3 of the 2006 Act only prohibits use of agricultural land for non-agricultural purposes without permission from the competent authority and it dose not prohibit acquisition of agricultural land for future use for non-agricultural purposes. Thus, the conditional prohibition contained in Section 3 would only apply at the stage when a person, who acquired agricultural land seeks to put the same to non-agricultural use. There is, thus, no prohibition, whatsoever, on an individual or the State to acquire agricultural land with a view to use it for non-agricultural

purposes in future. Once the State acquires the land under the provisions of the Act, it becomes the owner and it is exempted from the application of the provisions of the 2006 Act by virtue of Section 7(a) of the said Act. In view of such an exemption, the restrictions, if any, placed by the provisions of the 2006 Act on the use of agricultural land for non-agricultural purpose will have no application to the lands so acquired by the State.

In **BHAGAT SINGH V. STATE OF U.P.,**[7] the Supreme Court rejected the contention of the land owners that the proposed acquisition for establishment of a market yard in an area where the Master Plan permitted use of the land for 'light industries' held that the acquisition will not be invalid merely because the land proposed to be acquired is for the purpose other than the one permitted by the Master Plan or Zonal Plan applicable to that locality. It was further held that acquisition will be valid if it is for a public purpose even if it is not for the type of the user permitted by the Master Plan or Zonal Plan in force at the time the acquisition is made and that it will be for the beneficiary of the acquisition to move the competent authority under the Development Act and obtain the sanction of the said authority for suitable modification of the Master Plan so as to permit the use of the land for the public purpose for which the land is acquired. In coming to this conclusion, the Supreme Court referred to and relied upon its judgment in *AFLATOON V. Lt. GOVERNOR OF DELHI* {(1975) 4 SCC 285} wherein it negatived the contention of the land owners that the acquisition of the land was contrary to the concept of 'planned development' envisaged in the Delhi Development Act, 1957 and held that the fact that actual development is permissible in an area other than a development area with the approval or sanction of the local authority did not preclude the Central Government from acquiring the land for planned development under the said Act and that while Section 12 is only concerned with the planned development, it has nothing to do with the acquisition of the property, and *acquisition generally precedes development.*

The ratio laid down in the above mentioned judgments squarely applies to the present cases where the State, under the provisions of the Act is empowered to acquire any land provided it satisfies the test 'public purpose' and when once it acquires the land and becomes it's owner, it will be subject to the provisions of the 2006 Act. Therefore, the power of the eminent domine inhered in the State is in no way curtailed, controlled or limited by the provisions of the 2006 Act.

A Division Bench of this Court, of which I am a party, negatived a similar contention raised in Writ Petition Nos.22809 of 2006 and batch in judgment dated 1-10-2007. While answering question No.4 framed therein, the Division Bench held as under:

> "The argument of Shri P.Sri Raghuram that the agricultural lands cannot be used for non-agricultural purposes without obtaining prior permission under the said Act and, therefore, the acquisition of the petitioners' land should be nullified merits summary rejection because Section 3(1) of the 2006 Act contemplates the prior permission of the competent authority only when agricultural land is actually put to non-agricultural purpose. In these cases, that eventuality will happen only when the government succeeds in acquiring the land. So far, the acquisition proceedings could not be finalized because of the interim orders passed by this Court. Therefore, the impugned acquisition cannot be annulled by assuming that after taking possession of the land, the government will put the agricultural land to non-agricultural use without obtaining prior permission from the competent authority".

The view taken by the Division Bench fortifies my opinion that the stage for application of the provisions of the 2006 Act would not set in until the acquisition is complete.

A learned single Judge of this Court in **CHANDANA MEENAKSHI V. GOVERNMENT OF A.P. REPRESENTED BY ITS SECRETARY, REVENUE & LAND ACQUISITION DEPARTMENT**[8] also took a similar view by holding that the necessity of obtaining prior permission under the provisions of the 2006 Act will not arise at the stage of notification issued under Section 4(1) of the Act and that the permission for conversion is required to be obtained only before using the agricultural land for non-agricultural purpose. The learned Judge on that premise held that the notifications issued for acquisition couldn't

be invalidated on that ground.

In **SANJEET SINGH GREWAL** (1 supra), on which reliance is placed by the learned counsel for the petitioners, the proposed acquisition by the State of Punjab of huge extent of about 9354 acres of land in 29 villages for setting up of a new town viz., Anandgarh, was set aside by the Supreme Court mainly on the ground that the mandatory procedure of selection of the site by the Board constituted under the Punjab Regional and Town Planning and Development Act, 1995 (for short "the 1995 Act") before initiating proceedings for acquisition was not followed. While referring to the provisions of the 1995 Act, the Supreme Court in paras 28 and 38 held thus:

> "28. Clause (i) of sub-Section (2) of Section 28 is significant. It provides that the State Government or the Board may require the authority (PUDA) to take up the works in connection with the preparation and implementation of regional plans, master plans and new township plans, and town improvement schemes. It does not empower PUDA to declare the site for a new town as a planning area though it is authorized to prepare and implement new township plans. It can, therefore, be safely concluded that after a site for a new town is selected by the Board and declared as a planning area in exercise of its powers under Section 56 of the Act, the authority designated as the planning agency for that area, can take up the works in connection with the preparation and implementation of new township plans.
>
> 38. Reliance was also placed on the judgment of this Court in *Ajay Krishan Shinghal V. Union of India* – (1996) 10 SCC 721 – submitting that the acquisition for planned development is a public purpose. Once a public purpose has been specified by the Government, the notification under Section 4(1) of the Land Acquisition Act is not vitiated on account of the fact that planned development was not specified with particularization of the land in question needed for the public purpose. In the instant case the issue is quite different. The land has been acquired on the request of the New Town Planning Authority constituted under Section 31 of the Act for development of the new town of Anandgarh. The High Court has quashed the notification not on the ground that the detailed scheme had not been specified in the notification, but on the ground that there did not exist any valid public purpose in the absence of a validly declared planning area, namely, a site for a new town, by the competent authority by notification in the Official Gazette under Section 56 of the Act of 1995".

A careful reading of the said judgment discloses that Section 42 of the 1995 Act enabled the State Government, at the request of the authority constituted under that Act, to acquire the land owned by the

Central Government under the provisions of the Act subject to the conditions laid down in the said provision. Therefore, there was an interplay of the two statutory enactments, viz., 1995 Act and Act, and unless the provisions of the former Act are complied with, the State Government could not validly invoke the provisions of the Act for acquiring the lands. From the above reproduced paragraphs of the judgment of the Supreme Court, it is clear that the acquisition was quashed on the ground that in the absence of a validly declared planning area under the 1995 Act, no valid public purpose could be said to exist. I am, therefore, of the view that the said judgment of the Supreme Court, relating to a case involving two statutory enactments and where the acquisition was invalidated on the ground of violation of mandatory statutory requirements of one of the two enactments, compliance of which was sine qua non for acquisition, has no application to the present case.

For all the aforementioned reasons, I hold that the acquisition proceedings initiated by the respondents cannot be invalidated on the ground of non-conversion of agricultural land for being used for non-agricultural purposes.

I shall now deal with individual cases.

**Writ Petition Nos.18881 and 19286 of 2006 and 1900, 2697, 2703, 2742, 3269, 3270, 3359, 3483, 9222, 10463, 10945, 22966 and 23937 of 2007:**

-

Since the contentions raised in these Writ Petitions are almost common, they are dealt with together.

In all these Writ Petitions, the notifications issued under Section 4(1) of the Act were published in accordance with the said provision. It is mentioned in the said notifications that the District Collector, Krishna District appointed the Revenue Divisional Officer, Gudiwada, to conduct enquiry under Section 5-A of the Act.

One of the grounds of challenge of the impugned notifications is that delegation of power of holding enquiry under Section 5-A in favour

of the Revenue Divisional Officer, Gudiwada, is contrary to the provisions of the Act.

This Court, while admitting the Writ Petitions, granted interim stay of all further proceedings, including dispossession of the petitioners from the lands in their occupation. Therefore, enquiry under Section 5-A of the Act is not held so far.

Sri C.Raghu and Smt.A.Chaya Devi learned counsel for the petitioners, pointed out that under Section 5-A (2) of the Act every objection shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorized by him in this behalf or by Pleader. They contend that Section 3© of the Act defined the word 'Collector' as the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act and that it is only the appropriate Government, which is empowered to authorize any officer, other than the District Collector, to perform the functions of a Collector. According to them, since no such authorization was given by the appropriate Government in favour of the Revenue Divisional Officer, Gudiwada, and the Collector - who claimed to have authorized the said officer to hold enquiry under Section 5-A, as evident from the impugned notifications - has no power to make any such authorization, the notifications issued under Section 4(1) of the Act are vitiated.

The learned Government Pleader for Land Acquisition stated that in exercise of the power contained in Section 3© of the Act the State Government issued a notification authorizing the Revenue Divisional Officers and the Mandal Revenue Officers in their respective jurisdictions to perform the functions of a Collector for the purpose of acquisition of lands for construction, extension or improvements and for the provision of dwelling houses to the poor etc., and that, therefore, in view of the said notification, which is general in nature, the Revenue Divisional Officer has the authority to hold enquiry under Section 5-A of the Act.

I have carefully considered the submissions of the learned counsel. G.O.Ms.No.822 Revenue (K) Department, dated 16-7-1985 reads as under:

**ORDER**

"The Notification appended to this order will be published in the next issue of the Andhra Pradesh Gazette. (By order and in the name of the Government of Andhra Pradesh).

**APPENDIX**

**NOTIFICATION**

Under Clause © of Section 3 of the Land Acquisition Act, 1894 (Central Act, 1 of 1894), the Governor of Andhra Pradesh hereby appoints Revenue Divisional Officers and the Mandal Revenue Officers in their respective jurisdiction to perform the functions of a Collector, under the Act, for the purpose of acquisition of lands for the construction, extension or improvements of any dwelling house to the poor; for the provision of Pathways to Harijanawadas and provision of burial grounds including pathways to burial grounds to Scheduled Castes and other Weaker Sections of Society".

It is evident from the above extracted notification that the Revenue Divisional Officers in the State are appointed as Collectors for discharging the function of holding enquiry under Section 5-A of the Act. It is no doubt true that the impugned notifications mention that the District Collector, Krishna District, authorized the Revenue Divisional Officer, Gudiwada, to hold enquiry under Section 5-A and that the District Collector does not contain such a power. In my considered view, this misstatement of fact by itself would not vitiate the notifications under Section 4(1) of the Act since the Revenue Divisional Officer, Gudiwada, by virtue of the above mentioned notification issued by the State Government falls within the definition of 'Collector' in Section 3© of the Act and, consequently, she is vested with the power to hold the enquiry under Section 5-A. In my considered view, it is the existence of power, which is relevant irrespective of the claim of the District Collector that he appointed the Revenue Divisional Officer, Gudiwada, to discharge the functions of Collector. In view of G.O.Ms.No.822, dated 16-7-1985, this contention of the learned counsel for the petitioners deserves to be and is, accordingly, rejected.

The learned counsel for the petitioners next contended

that the impugned notifications do not contain the boundaries of the properties, which are sought to be acquired from the petitioners.

The learned Government Pleader invited my attention to the provisions of Section 4(2) of the Act and submitted that the stage for fixing of the boundaries would come in only after publication of the notification under Section 4(1), since the officers of the State cannot enter upon the land for the purpose of fixing the boundaries until the publication as envisaged in Section 4(1) is complete.

Section 4(2) of the 1894 Act reads as under:

> "Thereupon it shall be lawful for any officer, either generally or specifically authorized by such Government in this behalf, and for his servants and workmen –
>
> to enter upon and survey and take levels of any land in such locality;
>
> to dig or bore into the sub-soil;
>
> to do all other acts necessary to ascertain whether the land is adaptable for such purpose;
>
> to set out the boundaries of the land proposed to be taken and the intended line of the work if any proposed to be made thereon;
>
> to make such levels, boundaries and line by placing marks and cutting trenches; and
>
> Where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:
>
> Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house unless with the consent of the occupier thereof without previously giving such occupier at least seven days notice in writing of his intention to do so".

It is, therefore, clear from the above reproduced provision that until the procedure prescribed for publication of preliminary notification under Section 4(1) is completed, the authorities cannot enter the land and fix up the boundaries. Therefore, I am in agreement with the contention of the learned Government pleader that non-mentioning of the boundaries in the impugned notifications does not violate the scheme of the Act and the notifications cannot, therefore, be invalidated on that ground.

Smt.A.Chaya Devi, learned counsel for the petitioners, further contended that the purpose of acquisition mentioned in the

notification is vague. In support of her contention, she relied upon the decisions of the Supreme Court in **MADHYA PRADESH HOUSING BOARD V. MOHD SAFI**[9], **DEVINDER SINGH AND OTHERS, APPELLANT V. STATE OF PUNJAB AND OTHERS**[10].

I have carefully perused the impugned notifications. It is mentioned therein that the purpose of acquisition is to provide house sites to poor people. In my considered opinion, there is absolutely no ambiguity or vagueness in the purpose mentioned in the notification. I also considered the judgments relied upon by Smt. A.Chaya Devi, and on the facts of the cases on hand, they are of no relevance. This contention is, therefore, rejected.

The contention of the learned counsel for the petitioners that the petitioners are small farmers cannot be entertained at this stage because the same does not raise jurisdictional issue to stall further acquisition proceedings. As enquiry contemplated under Section 5-A is yet to be held, the petitioners are free to raise their objections therein.

Therefore, all these Writ Petitions deserve to be dismissed and they are accordingly dismissed with liberty to the petitioners to raise all legally sustainable objections before the Revenue Divisional Officer, Gudiwada, and participate in the enquiry to be held under Section 5-A of the Act. The Revenue Divisional Officer, Gudiwada, is directed to give an opportunity of personal hearing to the petitioners and consider their objections to the proposed acquisition.

-

**WRIT PETITION No.19751 of 2006:**

In this Writ petition, the petitioners challenge notification dated 25-8-2006 issued under Section 4(1) of the Act, wherein an extent of Ac.3.68 cents of land of the petitioners is proposed to be acquired.

A perusal of the notification shows that the Revenue Divisional Officer, Gudiwada, respondent No.3 herein, is authorized to

hold enquiry under Section 5-A. In the affidavit filed in support of the Writ Petition, the petitioners contended that they are small farmers and there are alternative lands available for acquisition.

Inasmuch as the respondents have made a provision for holding enquiry under Section 5-A, the petitioners are provided with the valuable opportunity of raising all the legally sustainable objections to the proposed acquisition, I am not inclined to go into and adjudicate the contentions raised by the petitioners on merits.

The Writ Petition is accordingly dismissed with liberty to the petitioners to participate in the enquiry to be held under Section 5-A of the Act and respondent No.3 is directed to give an opportunity of personal hearing to the petitioners and consider their objections to the proposed acquisition.

**WRIT PETITION No.24564 of 2006:**

In this Writ Petition, the petitioner assailed notification dated 10-8-2006 issued under Section 4(1) and declaration dated 19-10-2006 made under Section 6 of the Act on the following grounds: (1) The Revenue Divisional Officer, Gudiwada, respondent No.2 herein, has no jurisdiction to hold enquiry under Section 5-A of the Act; (2) the land proposed to be acquired is a fish tank and it is not suitable for house sites unless it is leveled up to a considerable height; (3) there are many alternative lands belonging to the Government and Devasthanams; and (4) proper opportunity was not afforded in the enquiry held under Section 5-A of the Act.

In the counter-affidavit filed by respondent No.2, it is stated that all the lands in the village were converted into fish tanks and that there are neither agricultural lands nor government lands available for providing house sites to the poor people. It is further stated that the land proposed for acquisition is abutting the Village Panchayat road and nearer to the present village site and that the petitioner is not a small or marginal farmer. It is further stated that on 6-9-2006 the petitioner attended the enquiry held under Section 5-A and

submitted her objections and on the basis of the report submitted by her, the District Collector, Krishna, respondent No.1 herein, rejected the petitioner's objections and approved the draft declaration under Section 6 of the Act on 19-10-2006.

The learned counsel for the petitioner reiterated the contention that respondent No.2 has no jurisdiction to hold enquiry under Section 5-A. In view of the findings already recorded in Writ Petition No.18881 of 2006 and batch supra, this contention is rejected.

The learned counsel for the petitioner submitted that even before the expiry of 30 days from the date of publication of notification under Section 4(1), notice under Section 5-A was issued by respondent No.2 to the petitioner and, therefore, the procedure followed by respondent No.2 is contrary to the provisions of the Act. This contention of the learned counsel is without merit for the reason that stipulation of 30 days time in Section 5-A is the outer time limit for a person intending to object to the proposed acquisition to file his objections and this provision does not prevent the Land Acquisition Officer from issuing a notice to file objections and fix a date for hearing before the expiry of the 30 days period, if objections are received. In any case, it is not the case of the petitioner that she was not given sufficient time to file her objections nor that her objections were not considered. I do not, therefore, see any force in this contention of the learned counsel for the petitioner and it is, accordingly, rejected.

With regard to the contention that the land proposed to be acquired is a fish tank, there is no statutory prohibition to acquire land used as fish tank for the purpose of being used as house sites. In view of the categorical assertion of respondent No.2 that there are no other lands, which are better suited for being acquired and the petitioner's failure to convince the respondents to accept her plea in this regard, the acquisition proceedings cannot be set aside merely on the ground that the land proposed to be acquired is being used as fish tank. On the petitioner's own showing if it is leveled up, the land can be used for house sites. At any rate, this contention does not posit of any legal

principle on which the Court can invalidate the power of eminent domain exercised by the respondents.

With regard to lack of proper opportunity, the petitioner did not specifically plead in the affidavit filed in support of the Writ Petition that she was denied the opportunity of personal hearing by respondent No.2. Respondent No.2 in her counter-affidavit specifically stated that the petitioner attended the enquiry on 6-9-2006 and submitted her objections. It is only in her reply affidavit she stated that she attended the office of respondent No.2 on 6-9-2006 and waited from 10-30 AM to 3 PM and that no personal hearing was given. The fact that the petitioner did not come out with this plea at the earliest when she filed the affidavit coupled with the assertion in the counter-affidavit of respondent No.2 that the petitioner personally attended her office on 6-9-2006 and submitted objections, convince me to hold that the plea of alleged lack of opportunity of personal hearing is raised as a pure after thought by the petitioner. This plea is, therefore, without any basis. In view of the same, I do not find any relevance of the judgments of the Supreme Court in **MADHYA PRADESH HOUSING BOARD** (9 supra) and **HINDUSTAN PETROLEUM CORPN LTD. V. DARIUS SHAPUR CHENAI**[11]**,** relied on by the learned counsel, to the facts of this case.

As regards the alternative land, respondent No.2 categorically stated in the counter-affidavit that while there is no suitable Government land of an extent of Ac.3.00 cents in R.S.No.86/1,2,3P for providing house sites to 99 beneficiaries; the lands in R.S. No.58/2 admeasuring Ac.16.20 cents and R.S.No.62 and 63 admeasuring Ac.23.11 cents belonging to Sri Syamalamba Ammavari Devasthanam and Kanaka Lingeswara Swamyvari Devasthanam respectively are not situated adjacent to the village site; and that this Court in another proceedings prohibited acquisition/alienation of the lands belonging to the Religious Institutions in the State.

After carefully considering the case in its entirety, I am

not inclined to interfere with the proposed acquisition as I am of the view that the same does not suffer from any illegality, irrationality or procedural impropriety warranting interference of this Court under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed.

**WRIT PETITION Nos.7042 and 7046 of 2007:**

In these two Writ Petitions common notification dated 17-2-2007 issued under Section 4(1) of the Act - by which the lands of the petitioners, along with other's lands, are proposed to be acquired - is questioned.

Though the ground that the lands proposed to be acquired are being used as fish tanks, in view of the fact that enquiry under Section 5-A, which is envisaged in the impugned notification, is yet to be held, I am not inclined to go into the contentions raised by the petitioners on merits.

These Writ Petitions are, therefore, dismissed leaving the petitioners free to file their objections under Section 5-A, and the respondents are directed to give the petitioners an opportunity of personal hearing before deciding on the objections, if filed by the petitioners.

**WRIT PETITION No.23770 of 2006:**

In this Writ Petition, an extent of Ac.3.00 cents belonging to the petitioners in Survey No.133/1A of Pedaparapudi village and Mandal, Krishna District is proposed to be acquired for providing house sites to weaker sections of the Society under notification dated 13-8-2006 issued under Section 4(1). After considering the objections of the petitioners, declaration under Section 6 was made on 3-10-2006 and these proceedings are assailed in this Writ Petition.

Though several pleas have been raised in the Writ Petition, the only contention advanced by the learned counsel for the petitioners, apart from the contention based on the 2006 Act, is that

availability of alternative lands in the village.

In the counter-affidavit filed by respondent No.2 it is averred as under:

> " In reply to the averments made in para 5 of the petitioners' affidavit it is submitted that there is no poramboke land fit for house sites in the vicinity and abutting to the habitation as contended by the petitioners. There is an extent of Ac.2.42 of surplus land available in the following R.S.Nos. of Pedaparupudi village which is a part of Ac.5.22 cents reserved for community purpose i.e., for the construction of Mandal Office building in G.O.Rt.No.727, Revenue (G) Department, dated 11-3-1988.
>
> R.S.No. Extent
> Ac. Cts.
> 130/1B 0.73
> 130/2B 0.52
> 130/3B 1.17
> 205/8B 2.37
> 205/10 0.43
> ----------
> Total: 5.22
> ---------
>
> There is also an extent of Ac.4.08 cents in R.S.No.43 of Pedaparupudi village is vacant on ground since it is taken possession on 26-3-1996 under Land Acquisition Act. As the beneficiaries are not willing to take pattas stating that the land is situated in low lying area and northern side of the village, the said land is proposed for construction of A.P.S.W. Residential School Building Society. Thus, the Government land available was already earmarked for a specific purpose. Except these two plots there are no Government Poramboke lands available in the village fit for providing house sites to the weaker sections as contended by the petitioners. The acquisition of the lands of the petitioners is warranted for implementing Government Welfare Programme to wit for providing of house sites to weaker sections and not with any malafide intention and motivated with political inclinations as alleged by the petitioners. Hence, the contention of the writ petitioners is baseless".

Having regard to the categorical assertion of respondent No.2 that alternative lands available in the village cannot be utilized for providing house sites to weaker sections and in the absence of any other legal ground urged by the learned counsel for the petitioners, the Writ Petition is liable to be and accordingly dismissed.

**WRIT PETITION No.25278 of 2006**

In this Writ Petition, total extent of Ac.8.00 cents comprised in Survey Nos.38/1,38/2,38/3, 38/4 and 39/2 situated in Kurada village, Gudlavalleru Mandal, Krishna District and belonging to the petitioners, is proposed to be acquired under notification dated 13-8-2006 issued under Section 4(1) of the Act.

In response to notice dated 8-8-2006 issued under Section 5-A, the petitioners are stated to have sent their objections on 6-9-2006. The petitioners averred that without communicating any order, rejecting their objections, respondent No.2 issued declaration under Section 6. On 6-12-2006 this Court granted interim stay of all further proceedings.

Respondent No.2 filed counter-affidavit, in which it is stated that the petitioners attended the enquiry held under Section 5-A on 6-9-2006 and submitted their objections and that the said objections were rejected as untenable. It is further stated that draft declaration was issued under Section 6 on 9-10-2006 and was accordingly published in the District Gazette, two daily newspapers and in the locality on 9-10-2006, 2-11-2006, 6-11-2006 and 8-11-2006 respectively. After notices under Sections 9(3) and 10 were issued to the petitioners fixing 5-12-2006 as the date of award enquiry, the petitioners filed the present Writ Petition.

The petitioners did not question the order, by which their objections were rejected. As Section 5-A enquiry was already held and the objections filed by them were rejected, this Court cannot interdict the further proceedings unless the petitioners challenge the decision of respondent No.1, rejecting their objections.

At the hearing, learned counsel for the petitioners stated that the petitioners failed to question the said order as they were not supplied with a copy of the same.

Having regard to this contention of the learned counsel for the petitioners, I feel that ends of justice would be met if respondent No.1 is directed to furnish to the petitioners copies of the orders, by

which their objections were rejected, within a period of two weeks from the date of receipt of a copy of this order and it shall then be open to the petitioners to question the said orders, if they so choose. The respondents shall maintain status quo obtaining as on today for a period of two weeks from the date of furnishing a copy of the order of respondent No.1 to the petitioners.

The Writ Petition is accordingly disposed of.

**WRIT PETITION No.6413 of 2007**

In this Writ Petition an extent of Ac.0.62 cents each in R.S.Nos.275/1A and 275/1B belonging to the petitioner is proposed to be acquired under notification dated 17-2-2007 issued under Section 4(1) of the Act.

In the affidavit filed in support of the Writ Petition, the petitioner stated that on receiving the notice under Section 5-A, she submitted her objections on 9-3-2007 to the Revenue Divisional Officer, Gudiwada, respondent No.3 herein. Within a few days later, she filed the present Writ Petition. On 30-3-2007 this Court while admitting the Writ Petition granted interim stay of dispossession. The petitioner has not pleaded that the objections filed by her were rejected. Therefore, in my opinion, this Writ Petition is premature, inasmuch as in the absence of any allegation of procedural illegalities in the publication of notification, she cannot invoke the jurisdiction of this Court even before her objections were disposed of.

The Writ Petition is, therefore, dismissed leaving the petitioner free to avail appropriate remedy in the event her objections, filed under Section 5-A, are rejected.

**WRIT PETITION No.6424 of 2007**

In this Writ Petition, the petitioners questioned notification dated 17-2-2007 issued under Section 4(1) of the Act.

In the affidavit filed in support of the Writ Petition, the petitioners stated that on receiving the notice under Section 5-A, they submitted their objections on 9-3-2007 to the Revenue Divisional Officer, Gudiwada, respondent No.3 herein. A few days later, they filed the present Writ Petition. On 30-3-2007 this Court while admitting the Writ Petition granted interim stay of dispossession. In the affidavit, the petitioners have not pleaded that the objections filed by them were rejected.

For the same reasons as given in Writ Petition No.6413 of 2007, this Writ Petition is premature and is, therefore, dismissed leaving the petitioners free to avail appropriate remedy in the event their objections filed under Section 5-A are rejected.

**WRIT PETITION No.12957 of 2007**

In this Writ Petition an extent of Ac.0.30 cents in Survey No.255/1-Part situated in Tadicherla village, Hamlet of Seri Daggumilli village, Gudlavalleru Mandal, Krishna District, is proposed to be acquired under Notification dated 14-4-2007 issued under Section 4(1) of the Act and published on 25-4-2007. In pursuance of the notice issued under Section 5-A, the petitioner filed his objections on 11-5-2007. The said objections were rejected by the Collector, Krishna District, respondent No.1 herein, by his order dated 21-5-2007.

A perusal of the said order shows that the petitioner mainly objected to the acquisition on the ground that the proposed land is chosen from a compact block of Ac.50.00 cents and that there will be difficulty in discharging the drain water, if the said land is acquired. The proposed acquisition was also objected on the ground that the land is not suitable for house sites and that the other members of his joint family are not agreeable to part with the land. These objections were considered and rejected.

Having regard to the nature of the objections raised by the petitioner, I am of the view that they do not pertain to any legal or jurisdictional aspects, the decision on which would be amenable to

scrutiny by this Court under Article 226 of the Constitution of India. The order rejecting the objections, in my opinion, does not suffer from any legal infirmity for interference by this Court in exercise of its Writ jurisdiction.

The Writ Petition is, therefore, dismissed.

**WRIT PETITION No.22952 of 2007**

In this Writ Petition, the grievance of the petitioner - whose land admeasuring Ac.1.66 cents in Survey No.34/1-Part of Jujjavaram village, Pamarru Mandal, Krishna District, is proposed to be acquired - is that even before the time for filing objections against the proposed acquisition expired, the respondents are seeking to hold enquiry under Section 5-A. According to the petitioner, she received notice issued under Section 5-A on 25-10-2007, wherein she was permitted to file her objections within 15 days from the date of service of notice, but the notice fixed 1-11-2007 as the date of enquiry.

A perusal of the record shows that on 1-11-2007 this Writ Petition came up for admission. Since a batch of Writ Petitions, raising the common issue of validity of acquisition of agricultural land without conversion, was expected to come up on 2-11-2007, the same was posted on the said date and on 2-11-2007 order of status quo with respect to possession of the land was granted.

As the petitioner is provided with an opportunity of raising her objections in the enquiry to be held under Section 5-A, I am not inclined to entertain this Writ Petition.

Accordingly, while dismissing the Writ Petition, the petitioner is given liberty to file her objections within three weeks from today and respondent No.2 is directed to give the petitioner an opportunity of personal hearing after receipt of objections, if any, from the petitioner before seeking to proceed further with the acquisition.

**WRIT PETITION Nos.25099 and 25612 of 2006:**

The petitioner in Writ Petition No.25099 is the wife of the petitioner in Writ Petition No.25612 of 2006. These two Writ Petitions

are filed questioning notification dated 13-8-2006 issued under Section 4(1) of the Act, whereunder an extent of Ac.6.01 cents of land in Survey No.412/B-Part, situated in Vadlamannadu village, Gudlavalleru Mandal, Krishna District and belonging to the petitioners is sought to be acquired.

It is the common case of the petitioners that they filed objections to the notices issued under Section 5-A and that without supplying copies of their orders, whereby their objections are stated to have been rejected, the respondents are seeking to proceed to issue declaration under Section 6.

In the counter-affidavit filed by the Revenue Divisional Officer, Gudiwada, respondent No.2, it is averred that after enquiring into the objections filed by the petitioners, she submitted a report to respondent No.1 and the latter rejected the said objections. It is further stated that declaration under Section 6 was made on 9-10-2006 and published in the Gazette, newspapers and the locality. After receipt of notice of award enquiry, the petitioners filed the present Writ Petitions.

Since the petitioners neither filed the order rejecting the objections, nor questioned the reasons contained therein, this Court cannot invalidate the land acquisition proceedings. Therefore, while dismissing these Writ Petitions, liberty is given to the petitioners to avail the appropriate remedy, if they so choose, by questioning the order passed by respondent No.1 rejecting their objections. To facilitate the petitioners to avail such a remedy, respondent No.1 is directed to supply to the petitioners copies of the order rejecting their objections within a period of two weeks from the date of receipt of a copy of this order. Status quo obtaining as on today shall be maintained for a period of two weeks from the date of furnishing of the order to the petitioners.

**WRIT PETITION No.10159 of 2007:**

This Writ Petition is filed questioning notification

dated 18-3-2006 issued under Section 4(1) of the Act, whereby an extent of Ac.0.30 cents in Survey No.438/14-B2 situated in Venkayammapeta, Kadiyam Mandal, East Godavari District, is proposed to be acquired for laying approach road for Scheduled Caste and Backward Class house sites from National High Way in Venkayammapeta village.

A perusal of the notification shows that enquiry under Section 5-A was dispensed with. After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition, I am of the view that the purpose of acquisition, viz., laying of approach road, does not warrant invocation of urgency clause. Section 5-A affords a valuable opportunity to the owners of the land to raise their objections to the proposed acquisition and such a valuable right cannot be denied by invoking the urgency clause in a casual manner.

Therefore, I deem it appropriate to set aside declaration dated 29-3-2006 and direct the respondents to conduct enquiry under Section 5-A by giving an opportunity of personal hearing to the petitioner before seeking to proceed further.

The Writ Petition is accordingly allowed in part.

**WRIT PETITION No.15447 of 2007:**

In this Writ Petition, the petitioners questioned notice dated 2-7-2007 issued under Section 5-A of the Act, whereby an extent of Ac.1.81 cents of land, belonging to the petitioners, situated in Therani village, Nagari Mandal, Chittoor District is sought to be acquired and they were called upon to file their objections within 15 days from the date of publication of the said notice while fixing 20-7-2007 as the date for enquiring into the objections, if any, filed.

At the hearing, Sri K.S.Gopala Krishnan, learned counsel for the petitioners, submitted that under Section 5-A, a period of 30 days is given to the owners of the land for submitting objections and that prescribing 15 days time for filing objections is contrary to the said

provision.

This contention, in my considered opinion, is wholly misconceived. The period of 30 days stipulated in Section 5-A is the outer limit from the date of publication of notice under Section 4(1) for persons who intend to object to the acquisition of the land. The said provision does not mandate that by giving notice for filing objections and holding enquiry, the owners of the land shall be given 30 days time for submitting their objections. The notice received by the petitioners is statutorily prescribed in 'Form-3' wherein 15 days time is stipulated for filing objections. The intendment of giving notice is to provide a reasonable opportunity of filing objections against the proposed acquisition and, in the absence of any mandatory statutory provision, providing for longer period, the period of 15 days provided in Form-3 cannot be said to be unreasonable.

I am, therefore, of the opinion that the Writ Petition is wholly without any merit and is accordingly dismissed. The petitioners are given three weeks' time to file their objections, if not already filed, and on receipt of the objections, Revenue Divisional Officer, Chittoor, respondent No.1 herein, shall dispose of the same after giving an opportunity of personal hearing to the petitioners.

**WRIT PETITION No.25131 of 2007:**

In this Writ Petition, notification under Section 4(1) of the Act was issued on 1-11-2007 and 'Form-3' notice under Section 5-A was issued by Revenue Divisional Officer, Machilipatnam, respondent No.2 herein, to the petitioner. In response to the same, the petitioner submitted her objections on 16-11-2007 to respondent No.2, and without waiting for disposal of the said objections; the petitioner filed this Writ Petition.

I am of the considered opinion that this Writ Petition is wholly premature. As the petitioners failed to point out any legal infirmity in issuance of notification under Section 4(1) or its publication, there is no warrant to entertain this Writ Petition so as to prevent the respondents from initiating further steps in pursuance of the notification

under Section 4(1). In the event, a decision adverse to the petitioner's interest is taken, she is free to avail appropriate remedy at that stage.

The Writ Petition is, therefore, dismissed.

**WRIT PETITION No.19105 of 2006:**

In this Writ Petition an extent of Ac.2.50 cents comprised in Survey No.373-part of Dosapadu village, Pedaparupudi Mandal, Krishna District, is proposed to be acquired by notification dated 10-8-2006 issued under Section 4(1) of Act. The petitioner has assailed the same in this Writ Petition.

At the hearing, apart from the issue relating to non-conversion of agricultural land, the only other ground raised by the learned counsel for the petitioner is that an extent of Ac.2.50 cents is proposed to be acquired and the notification mentioned the names of the petitioner and another person, by name, Bolem Yasaswini. The learned counsel contended that the petitioner has no connection, whatsoever, with B.Yasaswini, and that the respondents failed to show the extent of the land belonging to the petitioner separately for the proposed acquisition.

On 19-11-2007 the Revenue Divisional Officer, Gudiwada, 2nd respondent herein, was personally present and according to her since the land was not sub-divided by the date of notification under Section 4(1), separate extents were not shown and that the extent of the land of the petitioner, which is proposed to be acquired, is subsequently ascertained as Ac.1.16 cents. She also submitted that since the petitioner did not attend the enquiry, the same was not closed and that, if so directed by this Court, she will hold further enquiry after giving opportunity to the petitioner.

As the respondents have come out with a plausible reason for not notifying the actual extent of land of the petitioner in the notification issued under Section 4(1), I am not inclined to set aside the said notification. The officer authorized by the Government can enter upon the land only after publication of notification under Section 4(1).

Failure of the respondents to indicate the actual extent of land belonging to the petitioner does not suffer from any illegality. Since the respondents have demarcated the land of the petitioner separately, after publication of notification under Section 4(1), I am of the view that the impugned notification does not suffer from any legal infirmity warranting its invalidation.

Since the enquiry under Section 5-A is not yet closed, as held out by respondent No.2, this Writ Petition is disposed of by permitting the petitioner to file his objections within a period of three weeks and directing respondent No.2 to dispose of the same, after giving an opportunity of personal hearing to the petitioner.

The Writ Petition is ordered accordingly.

**WRIT PETITION No.10936 of 2007:**

In this Writ Petition, a total extent of Ac.13.40 cents in Survey No.326/1 and 328-Part of Mallayapalem village, Gudivada Sivar and Mandal, Krishna District, belonging to the petitioners is notified on 1-5-2007 issued under Section 4(1) of the Act.

The case of the petitioners is that petitioner No.1, who owns Ac.5.50 cents of land executed a registered gift deed in favour of her daughter, by name, A.Sailaja on 18-12-1999 and title deeds and pattadar pass books were issued in respect of the said extent. Petitioner No.2 executed registered gift deed dated 16-7-2002 for an extent of Ac.3.00 cents in Survey No.328-Part in favour of his daughter Kolli Sri Rani and pattadar passbooks and title deeds were issued in her name. Petitioner No.2 also executed another registered gift deed in the year 2004 in favour of his another daughter, by name, Uppalapati Sridevi, for an extent of Ac.3.00 cents in Survey No.328-Part.

At the hearing, Smt.A.Jayanti, learned counsel for the petitioners, strenuously contended that despite the fact that the petitioners executed registered gift deeds in favour of their daughters, and the names of the donees under the gift deeds were mutated in the revenue records, the impugned notification does not reflect their names

and that, therefore, the same is liable to be declared as illegal.

I have carefully considered the submission of the learned counsel for the petitioners and I am not persuaded to accept the same. The object of issuing notification under Section 4(1) is to make all the persons interested in the land to be aware of the proposal to acquire the lands. Even if the names of the registered owners are not mentioned in the notification, as persons interested they are not precluded from filing their objections and on such objections being filed, it is the duty of the Land Acquisition Officer to consider the objections so filed by all the persons, who are interested in the lands, irrespective of whether their names are shown in the notification issued under Section 4(1).

Therefore, merely on account of the reason that the names of the registered owners are not mentioned in the notification issued under Section 4(1), the notification cannot be, ipso facto, invalidated unless it is pleaded and proved that any prejudice, on account of the same, is caused to the owners of the land. I have carefully gone through the averments contained in the affidavit filed in support of the Writ Petition and the petitioners failed to plead having suffered any such prejudice. As the enquiry under Section 5-A is yet to be held, I am of the view that it would be in the fitness of things that the petitioners/their daughters file their objections within a period of three weeks and on receipt of the objections, if any, respondent No.2 shall hear either the petitioners/registered owners or the persons authorized by them before proceeding further.

The Writ Petition is accordingly disposed of.

**WRIT PETITION No.10680 of 2007:**

In this Writ Petition, an extent of Ac.0.75 cents comprised in Survey No.168/1M part, situated in Komaravole village, Pamarru Mandal, Krishna District, is proposed to be acquired by notification dated 14-4-2007 issued under Section 4(1) of the Act.

The averments contained in the affidavit filed in support

of the Writ Petition disclose that in pursuance of the notice issued under Section 5-A, the petitioners filed their objections and appeared in person on 11-5-2007 at 11 AM before respondent No.2. The petitioners further averred that a decision on the objections filed by them has not so far been taken. Inasmuch as the objections of the petitioners are not so far disposed of, I am of the view that the Writ Petition is premature.

Therefore, while dismissing the Writ Petition, liberty is given to the petitioners to avail appropriate remedy in the event any decision is taken against their interest in the enquiry held under Section 5-A.

In the result:

(1) I hold that the acquisition proceedings initiated by the respondents cannot be invalidated on the ground of non-conversion of agricultural land for being used for non-agricultural purposes;

(2) Writ Petition Nos.18881 and 19286 of 2006 and 1900, 2697, 2703, 2742, 3269, 3270, 3359, 3483, 9222, 10463, 10945, 22966 and 23937 of 2007 are dismissed with liberty to the petitioners to raise all legally sustainable objections before the Revenue Divisional Officer, Gudiwada, within two weeks from today, if not already filed, and participate in the enquiry to be held under Section 5-A of the Act. The Revenue Divisional Officer, Gudiwada, is directed to give an opportunity of personal hearing to the petitioners and consider their objections to the proposed acquisition;

(3) Writ Petition No.19751 of 2006 is dismissed. However, liberty is given to the petitioners to participate in the enquiry to be held under Section 5-A of the Act and respondent No.3 is directed to give an opportunity of personal hearing to the petitioners and consider their objections to the proposed acquisition;

(4) Writ Petition No.24564, 23770 of 2006 and 12957 and 25131 of 2007 are dismissed;

(5) Writ Petition Nos.7042 and 7046 of 2007 are dismissed. The petitioners are free to file their objections under Section 5-A, and the respondents are directed to give the petitioners an opportunity of personal hearing before deciding on the objections, if filed by the petitioners;

(6) Writ Petition No.25278 of 2006 is disposed of directing respondent No.1 to furnish to the petitioners copies of the orders, by which their objections were rejected, within a period of two weeks from the date of receipt of a copy of this order. It shall then be open to the petitioners to question the said orders, if they so choose. The respondents shall maintain status quo obtaining as on today till the expiry of two weeks from the date of furnishing of the orders of respondent No.1 to the petitioners;

(7) Writ Petition No.6413 and 6424 of 2007 are dismissed as premature. The petitioners are free to avail appropriate remedy in the event their objections, filed under Section 5-A, are rejected;

(8) Writ Petition No.22952 of 2007 is dismissed. However, petitioner is given liberty to file her objections within three weeks from today and respondent No.2 is directed to give the petitioner an opportunity of personal hearing after receipt of objections, if any, from the petitioner before seeking to proceed further with the acquisition;

(9) Writ Petition Nos.25099 and 25612 of 2006 are dismissed. However, liberty is given to the petitioners to avail the appropriate remedy, if they so choose, by questioning the order passed by respondent No.1 rejecting their objections. To facilitate the petitioners to avail such a remedy, respondent No.1 is directed to supply to the petitioners

copies of the orders rejecting their objections within a period of two weeks from the date of receipt of a copy of this order. Status quo obtaining as on today shall be maintained till expiry of two weeks from the date of furnishing of copies of the orders of respondent No.1;

(10) Writ Petition No.10159 of 2007 is allowed in part. Declaration dated 29-3-2006 issued under Section 6 is set aside. Respondents are directed to conduct enquiry under Section 5-A by giving an opportunity of personal hearing to the petitioner before seeking to proceed further;

(11) Writ Petition No.15447 of 2007 is dismissed. However, petitioners are given three week's time to file their objections, if not already filed, and on receipt of the objections, the Revenue Divisional Officer, Chittoor, respondent No.1 herein, shall dispose of the same after giving an opportunity of personal hearing to the petitioners;

(12) Writ Petition No.19105 of 2006 is disposed of by permitting the petitioner to file his objections within a period of three weeks and directing respondent No.2 to dispose of the same, after giving an opportunity of personal hearing to the petitioner;

(13) Writ Petition No.10936 of 2007 is disposed of permitting the petitioners/their daughters to file their objections within a period of three weeks, and on receipt of the objections, if any, respondent No.2 shall hear either the petitioners/registered owners or the persons authorized by them;

(14) Writ Petition No.10680 of 2007 is dismissed. However, liberty is given to the petitioners to avail appropriate remedy in the event any decision is taken by the respondents, against their interest, in the enquiry held under Section 5-A of the Act; and

(15) As a sequel to disposal of all these Writ Petitions, all the W.P.M.Ps., filed in the respective Writ Petitions stand disposed of as infructuous.

_____

**C.V.NAGARJUNA REDDY,J**

Date:28.12.2007

MNR

---

[1]) (2007) 6 SCC 292

[2] ) AIR 1952 SC 369

[3] ) AIR 1958 SC 353

[4] ) AIR 1963 SC 1207

[5] ) AIR 1977 SC 1569

[6] ) AIR 1993 SC 2529

[7] ) (1999) 2 SCC 384

[8] ) Writ Petition No.26424 of 2006 and batch dt.14-8-2007

[9] ) (1992) 2 SCC 168

[10]) 2007 (1) DECISIONS TODAY (SC) 850

[11]) (2005) 7 SCC 627.